

HILDEETH

V.

SEE ATTACHED EXHIBIT #6

RECEIVED

JUN 10 2024

Motion For A TEMPORARY  
RESTRaining Order And a  
Preliminary Injunction

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA

Comes Now, The Plaintiff (prose) And RESpectfully  
MAKES This his "Motion For T.R.O. And A Preliminary Injunction",  
And in Support States:

1.) Plaintiff is Being Sevelely Limited with his Access  
to the Prison's ELL. System. E.L.L. is The electronic Law  
Library.

2.) Plaintiff is A Pro Se Litigant with a very Limited  
Amount of Knowledge Pertaining to Law - STATE OR Federal.

3.) T.R.O. / P.I. Defendants Are in Contempt of Court  
By denying Plaintiff Adequate Access TO E.L.L. which will  
Severely impact the out Come of Case# 5:23-CV-04010-LTS-KEM.

4.) Plaintiff has REquested More time TO Access The  
E.L.L., done informal grievences, And is in The Formal  
grievence Process.

5.) Plaintiff is only Classified AS 19 Points (middle  
of medium custody), is REport free Since May 8<sup>th</sup>, 2023,  
YET is Being held At Iowa's Most SECure Institution - which  
is greatly impacting his ABility to litigate.

6.) Plaintiff is Proceeding in forma pauperis, AKA 'AS  
A Poor Man', And Requests T.R.O. / P.I. defendants Be Served  
This motion By The U.S. Marshall's Service pursuant  
TO The FED. R. Civ. P. Rule 4(c).

7.) Plaintiff could Be transferred to A less SECure Facility  
immediately, or given unlimited Access TO The ELL, YET These  
TR.O. Defendants decline to do so.

## T.R.O. And Preliminary Injunction DEFENDANTS

1. REBELLA BOWKER

Executive officer - I.S.P.

P.O. Box 316

Ft Madison IA 52627

Individual And Official Capacity

2. Chris Tripp

Warden - I.S.P.

P.O. Box 316

Ft Madison IA 52627

individual And official Capacity

3. Rudolfo Gonzalez

Unit Manager H03 - I.S.P.

P.O. Box 316

Ft. Madison, IA 52627

individual And official Capacity

4. Ann Gehle

Case Manager / Counselor - I.S.P.

P.O. Box 316

Ft Madison, IA 52627

individual And official Capacity

Brendon

5. ~~Mark~~ Freeman

Treatment Director - I.S.P.

P.O. Box 316

Ft Madison, IA 52627



8.) Plaintiff has shown multiple Admin. Staff Members his Legal deadlines And Requirements, in order to try to gain more Adequate E.L.L. Access.

9.) Plaintiff has Mailed, to Judge Leonard T. Strand, A copy of Correspondence Between Plaintiff And his Case Manager, in An Attempt to gain counsel - to which Shows A denial of Adequate Access to the E.L.L.

10.) Judge Strand has denied Plaintiff's First motion to Appoint Counsel, And has Not made a ruling on Plaintiff's Second motion to Appoint Counsel - AT This Time.

Due to the REASONS Listed Above, Plaintiff SEEKS An emergency hearing And/or EMERGENCY Relief AS It Relates to the T.R.O./P.I. Defendants Conduct That Violates The 1<sup>st</sup>, 8<sup>th</sup>, And 14<sup>th</sup> Amendments of The United STATES Constitution. Plaintiff is, And Will continue to be, harmed By These defendants Conduct AS it greatly impacts his Ability to Litigate This Case; And The defendant's Actions intervene with The Plaintiff's Ability to fully Litigate (grieve) This Claim - in Violation of The 1<sup>st</sup> Amendment.

- Plaintiff is SEEKING That The Court orders AN immediate transfer to A Lower class of institution That Reflects The Plaintiff's Custody Score, An adequate Amount of E.L.L. Access to Litigate this Case, And A temporary RESTRAINING order Against These Listed Defendants to STOP Any Retaliation in REgards to Filing This Action.

Plaintiff Wants it Clearly Stated For the record, That The institutions Current E.L.L. System - LEXIS NEXIS - only allows Access for 45 minutes, Then Kicks you off for 15-30 minutes to which you must wait to get BACK on. This means

in a 2 hour period, you Really only get About 1 hour of Time. it would take Atleast 8 hours /day to get Adequate ACCESS - AS 8 hours only Allows Approximately 6 hours of E.L.L. time. AS well AS LEXIS NEXIS Does NOT Allow you to Save, Book mark, or Print Any CASE Law - So you must SPend 5-15 min. Each time you Log on - JUST To Find where you Left off.

Plaintiff Also wants on The Record, That The T.R.O./P.T. Defendants State Plaintiff Can USE "Pod time" TO do Legal REsearch And "Yard time" To do Legal REsearch. This is Flawed And Skewed AS there is 64 People on 1 Pod, And only 1 E.L.L. Computer. There is Atleast 10 People With Active Cases on This Unit. Pod Time is only 1 1/2 hours - And is Shower time And Phone time AS well. Yard time is your EXercise Time. Exercise is A guaranteed Right By The U.S. Constitution. Not only is That Time For exercise, Plaintiff has A Prison JOB as A "REC Worker" in the gym And weight yard, which takes Atleast 1/2 of his REC time Already. Quitting A JOB Results in higher Custody Score, And is A Violation of institutional Rules - Which Results in Disciplinary Actions.

## LAW MEMORANDUM

Plaintiff is Aware of The "Standard of Review" in This circuit that APPlies to REQUESTS for temporary REstraining orders And Pre-Liminary injunctive Relief. He Understands that in order for him to Obtain injunctive Relief Considerations relative to irreparable harm, Balance of the harm And injury to other Parties, Probability of success on The merits And The Public interest must Be Assessed. - Data Phase Systems, inc., v. C.L. Systems inc., 640 F. 2d 109, 114 (8th cir. 1981). IT IS The Plaintiffs Belief That The Plaintiff's Petition And exhibits

Establish a Balance in his Favor in All 4 areas. At A minimum, he has demonstrated Probability of Success of The merits such that Justice Requires the Court to intervene to Preserve the Status Quo until the merits Are determined. - DataPhase Supra at 113, F.W.S.

### A: Irreparable injury

The Loss of a Constitutional Right, even for a Short time Constitutes irreparable injury. - Elrod v. Burns, 427 U.S. 347, 373 (1976); Deerfield Medical Center v. City of Deerfield Beach, 661 F.2d 328, 338 (5th Cir. 1981).

The Basic Allegations Relevant to This motion consist of A Serious Violation to The Plaintiff's 1<sup>st</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendment Rights of the United States Constitution, And will continue to Be Violated in The ABSENCE of Injunctive Relief. This suffering from Constitutional Rights Violations harms, And will continue to harm, the Plaintiff's Ability to grieve And Litigate This case, And will Cause Permanent Damage to The outcome of This case.

### B: ABSENCE OF HARM TO The Adverse Party

These T.R.O./P.I. Defendants have No Legitimate interest in denying Plaintiff Adequate Access to The Prison's E.L.L. System.

These T.R.O./P.I. Defendants have No Legitimate interest in Keeping The Plaintiff in a higher security Prison, to Limit his Access to Library/E.L.L., when he is Not A max-Custody Scoring inmate.

These T.R.O./P.I. Defendants have No Legitimate interest in over-riding the Plaintiff's ACTUAL Custody Score to Keep him At I.S.P. - when he is Eligible for Parole And has Completed his State's mandatory minimum sentence.

### C:- Plaintiff's Likelihood of Ultimate Success on The merits

Under The United STATES Constitution "First Amendment deprivations, Regardless of how short the duration, constitute irreparable injury". — *Elrod v. Burns*, 427 U.S. 347, — S.Ct. —, — L.Ed.2d. — (1976).

"Any Restriction on The flow of information to Prisoners must relate to A Legitimate Penological interest, or Risk offending the First Amendment" — *Craft v. Roe*, 170 F.3d 957 (9th cir. 1999)

"First Amendment Protects The Pursuance of grievances" — *Davis v. Goord*, 320 F.3d 346 (2nd cir. 2003)

"ABSENT Legitimate Penological interest to the contrary, Prisoners have First Amendment Right to Receive information" — *JACKLOUICH v. Simmons*, 392 F.3d 420 (10th cir. 2004)

"intentional harassment of even the most hardened criminals Cannot Be tolerated By A civilized Society" — *Hudson v. Palmer*, 468 U.S. 517, 104 S.Ct. 3194, 60 L.Ed.2d 447 (1984)

"TO STATE A Claim of cruel And Unusual Punishment, Prisoners must Need Not wait for a deprivation, or injury, to occur if it Can Be Shown that Serious risk is inevitable" — *Helling v. McKinney*, 509 U.S. 25, 34-35, 113 S.Ct. 2475, — L.Ed.2d — (1993)

"Eighth Amendment Does NOT Require Serious injury to Support a Constitutional Claim." — *Tijerna v. Plentl*, 984 F.2d 148 (5th cir. 1993)

"Where Prisoner was Represented By Counsel on direct Appeal, Officials Denial of Access to Law Library did Not constitute An Access to Courts Violation" — *Entzi v. Redmann*, 485 F.3d 998 (8th cir. 2007)

The Plaintiff wants to Note that HE IS NOT REPRESENTED IN CASE No. # 5:23-cv-04010-LTS-KEM.

"Pro SE Litigants Enjoy right of Access to Courts" — *Rand v. Rowland*, 154 F.3d 952 (9th cir 1998).

"Prisoners have Constitutional right of Access to the Courts; Undue delay or similar Obstruction may impugn this Right" —



Chriscel V. Phillips, 169 F.3d 313 (5th Cir 1999).

The Case Law Cited Above Proves that the Plaintiff's Rights Are Being Violated. This CASE Law Shows The Likelihood, in the Plaintiff's Favor, of Ultimate Success on these Merits.

### D:— Public Interest

It Cannot Be disputed that the 1st Amendment Right, And the right to have Access to the Courts — is in The Public's interest to maintain Law And order. It is Not in The Public's interest for Prison officials to intervene And obstruct ongoing litigation And Legal matters.

IT does Not Serve The Public's interest for these T.R.O./ P.I. defendant's to Violate the Law, to Violate Constitutional Rights, or to Act in An Unlawful Manner.

It is Always in The Public's interest for Prison officials to obey the Law, especially The (United STATES) Constitution. — Phelps-Roper V. Nixon, 545 F.3d 685, 690 (8th Cir 2008); Duran V. Anaya, 642 F. Supp. 510, 527 (D.N.M. 1986) "Respect for The Law, particularly By Officials Responsible for The administration of the States' Correctional System, is in itself a matter of highest Public interest"; Lewely V. Oakland County Prosecutor's Office, 402 F. Supp. 1397, 2393 (E.D. Mich. 1975) (stating the "Constitution is the ultimate expression of the public interest.")

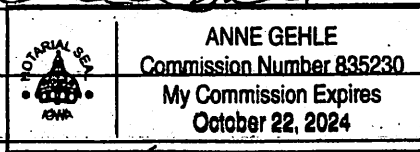
Wherefore, Plaintiff Prays that this Court will issue A temporary Restraining Order (T.R.O.) And A Preliminary Injunction (P.I.) Compelling The T.R.O./P.I. Defendants into Allowing Plaintiff Adequate Access to the Prison's E.L.L. And transfer the Plaintiff to A more suitable security prison — Reflecting his

⑦

Actual Custody Score - Not An over-ridden Score - so he has  
Proper Access to the Courts And so that these T.R.O./P.I.  
Defendants Cannot Retaliate Against The Plaintiff For filing  
this order, AS well AS Not Violating his 1<sup>st</sup>, 8<sup>th</sup>, And 14<sup>th</sup> Amendments  
Any Further.

Notarized on \_\_\_\_\_

*Anne Gehle*



RESPECTFULLY Submitted,

on 6-~~3~~<sup>4</sup>-2024, By  
MARVIN L. HILDRETH JR #6338040  
Iowa State PEN.  
PO Box 316  
Ft Madison IA 52627

*Marvin L. Hildreth Jr*

Attached exhibit #6

The Plaintiff Certifies under the Penalty of Perjury  
And Pursuant to the Laws of the State of Iowa And FEDERAL  
Law, The Proceeding is True And Correct to the Best of his Knowledge  
And Belief.

*Marvin L. Hildreth Jr*

Plaintiff: Marvin L. Hildreth JR #6338040

Date: 6-~~3~~<sup>4</sup>-2024

### Certificate of Service

The undersigned declares, Under the Penalty of Perjury, That he has  
mailed, By 1<sup>st</sup> class Postage-Prepaid, A True And Correct Copy of the foregoing  
to the United States District Court on the 4<sup>th</sup> day of June, 2024

*Marvin L. Hildreth Jr*  
MARVIN L. HILDRETH JR #6338040  
Iowa STATE PEN.  
PO Box 316  
Ft Madison IA 52627



T.R.O.  
EXHIBIT #1

## Kiosk Messages All Report

Kiosk Messages From 04/20/2024 To 06/03/2024 - Mailbox: Warden's Office

6338040 - Marvin Lynn Hildreth, Jr.

Message Date	Author	Mailbox	Subject	Text	Status
05/24/2024 9:45 am	Offender	Warden's Office	informal	want to do informal on removing hair brush per security director martinez. i need brush for my beard. theres wood in all sorts of other places. this is a fruitless endeavor for trying to remove wood and is impractical	Read
05/24/2024 11:39 am	CHRIS.TRIPP	Warden's Office	informal	Your Housing Unit errored when they took your hairbrush. It will be returned to you.	Read
05/31/2024 5:34 pm	Offender	Warden's Office	ELL	is there any way you could look into getting some form of ELL available on the tablets?i have tried to get approved for ELL time to get out,multiple times. i have a couple ongoing active cases.they will not approve me and say to use my yard time. yard time is for physical exercise. there is multiple people with active cases on this pod and only 1 ell so that is inefficient.+ it is limited to45min	Unread
06/02/2024 7:47 am	Offender	Warden's Office	ELL	I need adequate ELL time to file all my motions,discovery,depositions,etc as a pro se litigant. i have,multiple deadlines ranging from a few wks up until sept. i have no counsel. fed case no.# 5:23-cv-04010-LTS-KEM. active. i also need correspondence with multiple other inmates in other facilities so i can confer with my witnesses, LEGALLY. thank you. kite already sent to counselor and UM-denied	Unread

T.R.O.  
Exhibit #2

## Kiosk Messages All Report

Kiosk Messages From 04/20/2024 To 06/03/2024 - Mailbox: AW Treatment

6338040 - Marvin Lynn Hildreth, Jr.

Message Date	Author	Mailbox	Subject	Text	Status
05/21/2024 7:58 pm	Offender	AW Treatment	treatment transfer	since i got kicked out of t4c to go to hu3(tip increase),and apparently cant get treatment on hu3,no one is going to try to hold me back from transferring to medium right? roach told me that you told him that i would get into treatment on hu3 if i came over id just have to restart. im over 1 year report free(may8) but didnt get decision til may 31.i get ran up for parole in oct/nov...need transfer	Unread
06/02/2024 7:04 pm	Offender	AW Treatment	ELL	Need more ell time. have ongoing litigation. have deadlines. need transferred so i have more access to ell or something. already denied by gonzales and case manager... need ell and access to courts	Read
06/03/2024 7:49 am	BRENDON.FREEMAN	AW Treatment	ELL	You should have access in the library during yard times and in the Unit. For extra time you have to work with your UM and Counselor.	Read
06/03/2024 9:32 am	Offender	AW Treatment	ELL	they are denying adeqaute access to the ell as a pro se litigant under federal law and the constitution of the united states. yard time is for rec not legal work and hopsins law states you should not have to trade one right (exercise) for another (access to the courts/1st,8th,14th amendments). or give me a transfer to a yard with open yard	Unread
06/03/2024 10:01 am	Offender	AW Treatment	ELL	i also have a job in the weight yard and the cage so i cannot spend hours on the kiosk as i have a job to do and i use some time for exercise	Unread

To R.O.  
EXhibit #3

# Kiosk Messages All Report

Kiosk Messages From 04/20/2024 To 05/01/2024 - Mailbox: Case Manager

6338040 - Marvin Lynn Hildreth, Jr.

Message Date	Author	Mailbox	Subject	Text	Status
04/24/2024 7:42 pm	Offender	Case Manager	ELL	i need put on the ell access list. i got federal lawsuit, no lawyer, i am representing myself pro se and have no knowledge of the law. i have a 30 day deadline to respond to a motion filed on 4-18 as well as a deadline in june and july and august on dispositions. depositions, and discovery and need to do xtensive research. this is in regaurds to motions i have had to have notorized recently. thks	Read
04/26/2024 11:01 am	ANNE.GEHLE	Case Manager	ELL	You have pod and yard time to work on your legal work	Read
04/26/2024 11:55 am	Offender	Case Manager	legal mail	i should have had legal mail from courts by today. did it come and you missed me by chance while at my visit?	Read
04/26/2024 12:43 pm	ANNE.GEHLE	Case Manager	legal mail	You did	Read
04/28/2024 9:45 am	Offender	Case Manager	legal and notary	need a notary and legal mail monday please and thanks	Read
04/28/2024 6:56 pm	Offender	Case Manager	legal and notary	also might need copies after it notorized as i have to send to seperate parties- same motions	Read
04/29/2024 10:41 am	Offender	Case Manager	LEGAL AND NOTARY AND COPYLEGAL	I have 2 motions that need sent out asap. they need notorized then i need 2 copies as i have to mail to defendants and court and keep a record myself. sent kiosk yesterday as well. i go to asatru at 1255	Read
04/29/2024 5:32 pm	Offender	Case Manager	notary	think i need a notary tomorrow the 30th for another legal motion and copies and legal mail.	Read
04/30/2024 11:08 am	ANNE.GEHLE	Case Manager	LEGAL AND NOTARY AND COPYLEGAL	When I call you out, bring a store order to pay for the copies.	Read



I.R.O.  
EXHIBIT #4

## Kiosk Messages All Report

Kiosk Messages From 04/20/2024 To 06/03/2024 - Mailbox: Unit Manager HU 3

6338040 - Marvin Lynn Hildreth, Jr.

Message Date	Author	Mailbox	Subject	Text	Status
05/10/2024 7:30 pm	Offender	Unit Manager HU 3	transfer bizness	what up with this transfer business?my last report was on may8 2023. over 1 year. they submit my parole paperwork in oct/nov. i still have to do treatment since i got kicked out of t4c to come to hu3 in march. obviously thats a fruitless endeavor at isp, so i am trying to get to med. camp in time to do treatment before ran up so maybe i can be home for 1 last xmas with my gma	Unread
05/10/2024 7:34 pm	Offender	Unit Manager HU 3	transfer bizness	if i wait until june or july i most likely wont get to camp until july or august and then i still have to get in line for treatment.my report history isnt all that bad and im medium points.i talk to my counsilar but she say basically its up to you at the end of the day.im 6.5 hrs from my family,or more.clarinda is30 minutes from family maybe hr max. ft dodge is 1.5 to 2. idc where i go except asp	Unread
05/14/2024 6:45 pm	Offender	Unit Manager HU 3	priors	did u get a chance to look at my last 2 kiosk messages. i know you said you seen them so idk if your response is pending or if you thought it is what i asked about in hallway, but its different than what i asked in hallway. thanks	Unread
06/02/2024 7:44 am	Offender	Unit Manager HU 3	ELL	I need put on access list to ell. i have multiple deadlines ranging from a few weeks and going all the way into sept. im a pro se litigant, have to do all my own discovery, depositions, breifs etc. you can verify it. federal case No. #5:23-cv-04010-LTS-KEM. i also need correspondence with multiple other inmates in other camps so i can legally confer with my witnesses. thank you	Unread

T.R.O.  
Exhibit #5

## Kiosk Messages All Report

Kiosk Messages From 04/20/2024 To 06/03/2024 - Mailbox: AW Treatment

6338040 - Marvin Lynn Hildreth, Jr.

Message Date	Author	Mailbox	Subject	Text	Status
05/21/2024 7:58 pm	Offender	AW Treatment	treatment transfer	since i got kicked out of t4c to go to hu3(tip increase),and apparently cant get treatment on hu3,no one is going to try to hold me back from transferring to medium right? roach told me that you told him that i would get into treatment on hu3 if i came over id just have to restart. im over 1 year report free(may8) but didnt get decision til may 31.i get ran up for parole in oct/nov...need transfer	Unread
06/02/2024 7:04 pm	Offender	AW Treatment	ELL	Need more ell time. have ongoing litigation. have deadlines. need transferred so i have more access to ell or something. already denied by gonzales and case manager... need ell and access to courts	Read
06/03/2024 7:49 am	BRENDON.FREEMAN	AW Treatment	ELL	You should have access in the library during yard times and in the Unit. For extra time you have to work with your UM and Counselor.	Unread



Marvin Hildreth #6338040  
Iowa State PEN.  
PO Box 316  
Ft Madison IA 52627



US POSTAGE  
ZIP 52627 \$  
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6/5/24  
LH

XRAYED US MARSHALS SERVICE

UNITED STATES DISTRICT COURT  
c/o Clerk of Courts  
320 - 6th Street  
Room 301  
Sioux City, IA 51101-1210

UNITED STATES DISTRICT COURT  
SIoux CITY, IOWA  
CLERK OF COURTS  
320 - 6TH STREET  
ROOM 301  
SIoux CITY, IOWA 51101-1210  
MARVIN HILDRETH  
PO BOX 316  
FT MADISON, IOWA 52627  
IOWA STATE PENITENTIARY  
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